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November 20, 2023

Hon. P. Kevin Castel
Judge, United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Juan Alvarado Hernandez*, 15 Cr. 379 (PKC)

Dear Judge Castel,

I respectfully request the Court hold in abeyance the scheduling order (ECF Dkt. Entry 632) for the following reasons. The government in its November 10, 2023, section 6a filing argues the defense is [REDACTED] and that its section 5 notice is not specific in the notice it provides. See generally pages 8, 36.

The only way the defense can counter these arguments is by speaking with Mr. Hernandez about the specifics of his testimony; a step cleared counsel is unable to take given the government's position that the material to be discussed is classified. Without an attorney-client meeting in the SCIF, the defense is left in an untenable position; we can't be specific without consulting with the client and consulting with the client outside the SCIF about classified information is unlawful.

So that Mr. Hernandez may properly address the issues in the government's filings, I respectfully request the Court order the government to produce Mr. Hernandez in the Secure Compartmentalized Information Facility (SCIF), so that he is able to discuss the filings with his cleared counsel. Such accommodations have been made in cases such as *United States v. Joshua A. Schulte*, 17 Cr. 478 (PAC) (defendant had prior knowledge of the classified information and allowed to discuss it with his cleared counsel in the SCIF) and *United States v. Cholo Abdullah*, 20 Cr. 677 (AT) (defendant had prior knowledge of the classified information noted in the government's disclosures and allowed to discuss it with his cleared counsel in the SCIF).

Regardless of the Court's rulings on the above issue, I ask the Court to grant an extension of the November 27, 2023, deadline. I have been engaged at a jury trial on a two-defendant fraud case. Jury selection began and ended on October 23, 2023. Trial began on November 1, 2023 and a verdict was reached on November 15, 2023. In addition, I have a previously scheduled evidentiary hearing on November 28, 2023 – the client is incarcerated at Hudson County Jail. I need to meet with him to prepare him for his testimony as well as the experts who are to testify in the case.

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For all these reasons, I respectfully request the Court adjust the briefing schedule to make the defense submissions due two weeks after the government arranges for Mr. Hernandez to meet with his cleared counsel in the SCIF.

I have provided this letter to the Court through the CISO as the government maintains that the *italicized* portion of this letter is undergoing classification review and until then can't be quoted in a public filing. The italicized language bears the "U" marking in the government's section 6a filing, and is a generic argument made by the government in every CIPA case. "U" stands for unclassified and as instructed by CISOs, language bearing the "U" marking can safely be mentioned in unclassified filings.

The government notes that it intends to file its response to this letter no later than Wednesday, November 22, 2023, and that it does not object to a one-week extension for the defense filing from the current November 27, 2023 deadline.

Respectfully submitted,

/s/Sabrina Shroff
Cleared Counsel to Mr. Hernandez

cc: Daniel Hartenstine & Matthew Mullery, CISOs